APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
Group Art Unit: 3629
Examiner: Jamisue A. Plucinski

July 24, 2007

Customer Assignment No. 027516
Serial No.: 10/642,892
Filed: 8/18/2003
In re Application of: Calvesio et al.
Title: Transportation Security System and Method that Supports International Travel
Docket No.: RA-5621

APPELLANT'S BRIEF

MS Appeal Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This brief is being submitted on July 23 in response to a Notice of Panel Decision from Pre-Appeal Brief Review dated June 28, 2007. Please charge the fee of $500.00 required to enter this brief to deposit account number 19-3790 along with any additional fees required to enter these papers. Appellants request that this Appeal Brief be made of record and fully considered.

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Real Party In Interest

The real party in interest is Unisys Corporation, with an address as follows:

> Unisys Corporation
> Township Line and Union Meeting Roads
> Blue Bell, Pennsylvania 19424

Unisys Corporation is the real party in interest through an assignment from the inventors of their entire interests, having a recordation date of 10/21/2004 at Reel/Frame 015276/0382.

Related Pending Appeals and Interferences

There are no pending appeals or interferences related to the subject Appeal.

Status of Claims

Claims 1-32 remain pending and stand finally rejected. All of Claims 1-32 are being appealed.

Status of the Amendments

An amendment filed January 24, 2005 amended Claims 1-3, 5, 10-11, 17, 19-20 and 22-23. This amendment has been entered.

An amendment filed July 27, 2005 amended Claims 1, 10 and 23. This amendment has been entered.

An RCE filed January 16, 2006 was accompanied by a submission that amended Claims 1, 23, and 31. This amendment was not entered because of a formality issue, and a notice of non-compliant amendment was issued.

An amendment filed April 24 amended Claims 1, 23, and 31, and addressed the formality issue that existed in the amendment filed January 16, 2006. This amendment has been entered.

An amendment filed November 16, 2006 amended Claims 1 and 31. This amendment has been entered.

No further amendments have been submitted or entered.

A clean copy of Claims 1-32 as amended is provided as Appendix A.

Summary of Claimed Subject Matter

The invention relates to a system and method for automating the procedures that are required to accomplish an international border crossing during travel.

As is common knowledge to the traveling public, before a traveler is allowed to cross an international border, checks must be performed to establish eligibility to do so. This includes a manual step of verifying a person's identity, which may entail reviewing a person's travel documents and then verifying that the document carrier is the person described by those papers. Visual inspection may be used for this purpose, as by comparing the appearance of the traveler with a passport photograph. If this initial comparison is inconclusive, the official conducting the verification may request additional photo-identification documents such as a driver's license. In addition, the official may conduct an inquiry to ascertain nationality, employment, health, immigration, and/or residence status, etc., to verify that the traveler is eligible to cross a particular international border.[1]

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[1] Applicants' Specification ("Specification") page 2 line 22 – page 3 lines 18, for example.

The type of manual interview and/or inspection process discussed above is important for several reasons. First, because a passport photograph may be up to ten years old, an inspector may need to request additional information from the traveler, which may include a more recent photograph. If doubts still exist about the identity of the document bearer, additional information may be obtained via the interview process. Additionally, a trained inspector may be able to determine whether documents are counterfeit, or if any other concerns exist regarding the status of the prospective traveler. Moreover, the manual inspector will determine whether the traveler has fulfilled all requirements of the destination country, including all visa, health, security, and other requirements.[2]

The type of manual process discussed above is time-consuming. However, this process cannot be practically replaced by automated document readers located, for example, within an airport terminal. This is so for several reasons. First, automated means do not currently exist that have the capability to adequately interview a traveler to identify health, security, immigration, and other risks associated with international border crossings. Moreover, because a passport photograph may be as much as ten years old, and often will not match the current appearance of the traveler, an automated identification verification system for comparing a passport photograph with the traveler's current image will typically produce an inordinate amount of false negatives, and in some cases, may even result in false positives.

In view of the foregoing, some type of manual screening process is necessary to verify that a traveler is eligible to cross one or more international

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[2] Specification page 3, first full paragraph.

borders. According to prior art systems, this process is performed on the day of travel, for example at a customs station within an airport terminal. This procedure creates bottlenecks and increases wait times.

To address the limitations of the prior art systems, Applicants' mechanism provides a way to perform the manual checks described above prior to the day of travel. Such checks may include verifying a traveler's identification and eligibility to make one or more international border crossings included in a traveler's upcoming trip. According to this approach, prior to the date of departure, the traveler visits an enrollment office[3] where an enrollment official manually verifies identification of the traveler and, if necessary, performs an interview.[4] After the traveler's identity has been verified, checks are initiated to determine whether the traveler is eligible to cross the international border(s) included in the trip itinerary.[5] This will involve determining whether all travel requirements of the destination country (e.g., visa, health, immigration, and security requirements) have been fulfilled.[6]

If the traveler has fulfilled all requirements for the upcoming border crossing(s), a data processing system is employed to collect unique identification indicia such as fingerprints, iris scans, facial scans, and the like from the user.[7] This collected information is recorded in a database of the data processing system[8] along with other user information such as a scanned copy of the traveler's passport

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[3] Specification page 4 lines 14-18, page 20 lines 9-11. Figure 2 illustrates the enrollment system available at the enrollment office.
[4] Specification page 20 second full paragraph.
[5] Specification page 5 line 15 – page 6 line 2, page 22 lines 7-20.
[6] Specification page 22 lines 7-20, for example.
[7] Specification page 5 lines 4-7. Collection occurs via biometric devices 1 – N, 206 – 208 of Figure 2. See also, Specification page 18, second full paragraph.
[8] Figure 1, international travel database 125. Specification page 21 lines 19-22.

photo.[9] The traveler is then authorized to utilize a completely automated check-in process on the day of travel. According to this process, the traveler employs an automated kiosk[10] that collects the identification indicia (e.g., biometric data) from the traveler[11], and compares this information against that previously stored by the enrollment officials.[12]

If a match occurs, and processing of all of the traveler's data completes successfully, the traveler is allowed to by-pass the manual screening process generally required to complete an international border crossing.[13] That is, the traveler is automatically provided with a printed boarding pass and associated documents without having to undergo manual processing. At the destination, assuming the traveler does not fall into a special category of traveler or fail an automated check, the traveler is allowed to complete the border crossing without interacting with airline or security personnel. This saves the traveler a significant amount of time, and allows security resources to be concentrated on those travelers considered to statistically pose a higher security or other threat.[14]

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[9] Passport scanner 214. Specification page 20 lines 13-17 and page 21 lines 19-22.
[10] Self-serve kiosk 101 of Figure 1.
[11] Collection occurs via biometric devices 1 – N, 132-138, of Figure 1. Specification page 25, first full paragraph.
[12] Paragraph page 25 line 15 – page 27 line 2. Biometric verification application 133 of Figure 1 performs the comparison in one embodiment.
[13] Specification page 27, first two full paragraphs, page 28, last full paragraph. Steps 416 and 418 of Figure 4. Paragraph bridging pages 30 and 31, step 508 of Figure 5. Steps 608 – 622 of Figure 6. Specification pages 32-33.
[14] Specification page 7 line 17 - page 8 line 4.

Mapping of the Invention to Independent Claim 1

Some of the aspects of Applicants' invention that are discussed above are described in Applicants' Claim 1 as follows:

1.　　　A method of using a data processing system[15] for processing travelers crossing international borders, comprising:

a) prior to the time of travel, allowing an authorized enrollment representative to employ the data processing system[16] to enroll[17] a traveler to utilize an automated check-in process[18] after the authorized enrollment representative verifies[19] that the traveler is eligible to make an international border crossing; and

b) at the time of travel, utilizing the automated check-in process[20] to enable crossing of the international border, which may then be completed without aid of human intervention.[21]

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[15] The system of Figure 1. Figure 2 illustrates the enrollment system element 140 of Figure 1 in more detail. Specification page 11 line 1 – page 19 line 2.

[16] See, for example, Specification 16 first full paragraph, page 17 line 13 – page 20 line 2, page 20 line 9 – page 22 line 22. Figure 2 enrollment system 140.

[17] Specification page 20 line 9 – page 22 line 22. Figure 3 steps 302 – 320.

[18] Specification page 23 line 6 – page 28 line 22. Figure 4 steps 400 – 422.

[19] Specification page 20 line 9 – page 22 line 22. Figure 3 steps 304 – 320.

[20] Specification page 23 line 6 – page 28 line 22. Figure 4 steps 400 – 422.

[21] Specification page 31 line 12 – page 33 line 7. Figure 6 steps 600 – 622.

Mapping of the Invention to Independent Claim 23

23.   A system[22] for performing automated processing of a traveler crossing

an international border, comprising:

a data processing system[23] to allow an authorized enrollment

representative, prior to a day of travel, to verify[24] that the traveler is eligible to

cross the international border, and to thereafter enroll[25] the traveler to use an

automated check-in procedure[26]; and

a first user interaction system[27] coupled to the data processing system

to provide the automated check-in procedure[28] that automatically initiates

activities necessary to allow the traveler to cross the international border

without human intervention on the day of travel.[29]

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[22] The system of Figure 1. Figure 2 illustrates the enrollment system element 140 of Figure 1 in more detail. Specification page 11 line 1 – page 19 line 2.
[23] See, for example, Specification 16 first full paragraph, page 17 line 13 – page 20 line 2, page 20 line 9 – page 22 line 22. Figure 2 enrollment system 140.
[24] Specification page 20 line 9 – page 22 line 22. Figure 3 steps 304 – 320.
[25] Specification page 20 line 9 – page 22 line 22. Figure 3 steps 302 – 320.
[26] Specification page 23 line 6 – page 28 line 22. Figure 4 steps 400 – 422.
[27] Specification page 11 line 1 – page 19 line 2. Self-service kiosk 101 of Figure 1.
[28] Specification page 23 line 6 – page 28 line 22. Figure 4 steps 400 – 422.
[29] Specification page 31 line 12 – page 33 line 7. Figure 6 steps 600 – 622.

Mapping of the Invention to Independent Claim 31

31.   A system[30] for managing the crossing of an international border by a

traveler, comprising:

enrollment means[31] for allowing an authorized travel representative to

enroll the traveler in an automated travel process[32] after the enrollment

representative manually verifies the traveler is eligible to enter one or more

countries[33]; and

automated user interface means[34] for allowing the user to participate

in the automated travel process that completes all activities required for entry

into any of the one or more countries without the need for human intervention

at the time of travel.

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[30] The system of Figure 1. Figure 2 illustrates the enrollment system element 140 of Figure 1 in more detail. Specification page 11 line 1 – page 19 line 2.

[31] See, for example, Specification 16 first full paragraph, page 17 line 13 – page 20 line 2, page 20 line 9 – page 22 line 22.   Figure 2 enrollment system 140. Figure 3 steps 300 – 320.

[32] Specification page 23 line 6 – page 28 line 22 and page 31 line 12 – page 33 line 7. Figure 4 steps 400 – 422. Figure 6 steps 600 – 622.

[33] Specification page 20 line 11 – page 22 line 21. Steps 304 – 320 of Figure 3.

[34] Specification page 11 line 1 – page 19 line 2 and page 23 line 6 – page 28 line 22. Self-service kiosk 101 of Figure 1. Figure 4 steps 400 – 422.

Mapping of the Invention to Dependent Means-Plus-Function Claims

29.   The system of Claim 28, wherein at least one of the data processing

system[35] and the first user interaction system[36] includes means for checking

the data[37] to determine whether the traveler is allowed to utilize the second

user interaction system[38] to complete the automated clearance procedure.[39]

30.   The system of Claim 29, wherein at least one of the data processing

system[40] and the first and second user interaction systems[41] includes means

to initiate automated checks to determine whether the traveler poses any

threat to the country of destination.[42]

32.   The system of Claim 31, wherein the automated user interface means

includes:

first means[43] for automatically performing check-in activities before

crossing the border; and

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[35] See, for example, Specification 16 first full paragraph, page 17 line 13 – page 20 line 2,
page 20 line 9 – page 22 line 22.   Figure 2 enrollment system 140.
[36] Specification page 11 line 1 – page 19 line 2. Self-service kiosk 101 of Figure 1.
[37] Specification page 12 line 1 – page 13 line 22, page 18 line 11 – page 19 line 3, page 20
line 11 – page 22 line 21. Figure 1 biometric interface 122, biometric devices 132 – 138,
biometric verification application 133, storage read 124, user interface devices 112. Figure
2 biometric devices 206 – 208, biometric reader 212, passport scanner 214, passport
scanner 210, and document scanner 216. Figure 3 steps 304-320.
[38] Specification page 17 lines 7-12 and page 31 line 12 – page 33 line 9. Elements 150,
152, and 154 of Figure 1.
[39] Specification page 31 line 12 – page 33 line 7. Figure 6 steps 600 – 622.
[40] See, for example, Specification 16 first full paragraph, page 17 line 13 – page 20 line 2,
page 20 line 9 – page 22 line 22.   Figure 2 enrollment system 140.
[41] Specification page 11 line 1 – page 19 line 2. Self-service kiosk 101 of Figure 1.
[42] Specification page 20 line 11 – page 22 line 21. Step 310 - 320 of Figure 3, and in
particular step 320.
[43] Specification page 11 line 1 – page 19 line 2. Self-service kiosk 101 of Figure 1.

second means[44] for automatically performing clearance activities after

crossing the border.

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[44] Specification page 17 lines 7-12 and page 31 line 12 – page 33 line 9. Elements 150, 152, and 154 of Figure 1.

Grounds of Rejection to be Reviewed on Appeal

Whether the rejection of Claims 1-32 under 35 USC §102(b) based on U.S. Patent Number 6,085,976 to Sehr ("Sehr") is proper.

This issue may be divided into the following sub-issues:

A.   Whether Sehr teaches that an authorized enrollment representative, prior to the time of travel, verifies that a traveler is eligible to make an international border crossing;

B.   Whether Sehr teaches that an authorized enrollment representative, prior to the time of travel, enrolls a traveler to utilize an automated check-in process; and

C.   Whether Sehr teaches an automated check-in process that enables crossing of an international border without aid of human intervention.

Argument

Whether the rejection of Claims 1-32 under 35 USC §102(b) based on Sehr is
proper.

Before considering this issue in detail, a summary of Sehr is provided for
discussion purposes. Sehr discloses a passenger card such as a smart card that
stores travel information. Such information may include an electronic ticket, use
rights for a transportation carrier, considerations for travel-related services, security
codes, and so on.[45] In one embodiment, Sehr contemplates that passport
authorities will provide electronic copies of passport documents for downloading into
the card.[46] When passport information is downloaded into the Sehr smart card,
this information is verified manually on the day of travel as follows:

> "As the day of departure arrives, the cardholder drives to the airport to catch
> the reserved flight....Because this is an international travel, the passenger's
> passport will be verified as well. The passport will be retrieved from the
> passenger card and viewed on the control module's display screen. The
> representative can verify the displayed information as is, or might request
> additional information to further verify the lawful bearer; for example, the
> signature of the passenger to be entered via a signature pad."[47]

As described by this passage, during international travel, the Sehr system requires
that a travel representative manually performs the identification verification on the
day of travel according to conventional prior art approaches.

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[45] See, for example, Sehr column 3 lines 59-62, column 4 lines 31-35, column 6 lines 27-31,
column 8 lines 52-57.
[46] Sehr column 32 lines 11-18.
[47] Sehr column 33 line 49-50 and column 34 lines 23-28, emphasis added.

Next, the specific elements of representative Claim 1 are considered in regards to the sub-issues listed above.   For ease of reference, Claim 1 is reproduced as follows:

> 1.   A method of using a data processing system for processing travelers crossing international borders, comprising:
>   a)   prior to the time of travel, allowing an authorized enrollment representative to employ the data processing system to enroll a traveler to utilize an automated check-in process after the authorized enrollment representative verifies that the traveler is eligible to make an international border crossing; and
>   b)   at the time of travel, utilizing the automated check-in process to enable crossing of the international border, which may then be completed without aid of human intervention.

The sub-issues are next considered in view of this language as follows:

A.   Whether Sehr teaches that an authorized enrollment representative, prior to the time of travel, verifies that a traveler is eligible to make an international border crossing.

Representative Claim 1 step a.) describes that an enrollment representative verifies that the traveler is eligible to make an international border crossing before enrolling the traveler to use an automated check-in process.   Depending on the particular international border that is to be crossed by that traveler, this may involve determining whether the appropriate visas have been obtained for the destination country, whether the specific health, security, and/or immigration requirements of that destination country have been met by the traveler, and so on.   The requirements that must be satisfied to gain eligibility are specific to the destination

country, and therefore the enrollment representative must take into account the

traveler's itinerary when determining eligibility.[48]

The Examiner states that Sehr teaches that a passport application is provided

to a passport official, who will issue/renew the passport. The Examiner asserts that

the passport agency teaches Applicants' use of an enrollment representative to

determine eligibility to make an international border crossing.[49]

The Appellant does not agree with the foregoing analysis. Passport agencies

such as the U.S. State Department do not perform any verification process that may

determine whether the traveler is eligible to make any particular international border

crossing. An issued passport indicates the identity and nationality of the bearer, and

provides some indication that the bearer is considered eligible by the country that

issued the passport to travel outside of that country. This information alone does

not indicate whether that traveler may, in fact, cross any particular international

border. A separate and additional determination must be made as to whether the

traveler has fulfilled the specific requirements of each destination country

represented by the traveler's itinerary. These requirements will depend on the laws

and restrictions of each destination country. Such laws and restrictions will govern

issues related to health, immigration, security, agriculture, and so on. These

considerations must be reviewed on a country-by-country basis after a traveler has

established an itinerary.

A passport agency does not consider requirements of any given destination

country. In fact, many passport applicants do not have itineraries at the time they

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[48] Specification page 5 lines 15-21, page 22 lines 7-20.
[49] Final Rejection page 3 lines 1-4.

are applying for a passport. Moreover, a passport application may, but is not

required to, contain information regarding upcoming travel plans. Almost certainly,

at the time a passport is issued, the passport recipient cannot predict, nor can the

passport agency "enable", each of border crossings that the passport recipient will

make over the ten-year life of that new passport. Even if a traveler could make

such a prediction, travel plans that will occur well into the future cannot be "enabled"

by the issuance of a passport since the laws, security regulations, border

procedures, security alerts, etc. of a particular destination country are very likely to

change over time. Thus, there is no way issuance of a passport can "enable" an

international border crossing in a way that will comply with restrictions that will be in

existence as much as ten years into the future.

For at least the foregoing reasons, the issuance of a passport by a passport

agency, whether the passport is issued in tangible or electronic format, does not

teach Applicants' step of, prior to the time of travel, verifying by an authorized

enrollment representative that the traveler is eligible to make an international border

crossing.

B.   Whether Sehr teaches that an authorized enrollment representative,

prior to the time of travel, enrolls a traveler to utilize an automated check-in

process.

As discussed above, after Applicants' enrollment representative verifies that a

traveler is eligible to make a particular international border crossing, the enrollment

representative enrolls the traveler to use an automated check-in process on the day of travel.

The Examiner asserts that a passport official that issues a passport teaches Applicants' enrollment representative, and that the passport official's supplying of an electronic copy of the passport teaches Applicants' enrollment procedure.[50] However, a passport official does not enroll a traveler to use any particular check-in process, automated or otherwise.   As discussed above, a passport agency does not necessarily have any visibility into how a traveler will be using that passport in the future. For instance, the passport agency does not know whether the traveler will be using the passport at some time in the future to travel to a particular destination country, and/or whether that travel will occur by car, boat, plane, train, etc. Therefore, that agency cannot possibly "enroll" a traveler to use any particular "check-in" process. Moreover, a passport agency is not necessarily concerned with the specific travel activities of the traveler, and is not in the business of "enrolling" a traveler to undergo any type "check-in" procedure. Nothing in Sehr teaches, or in any way suggests, a passport agency performing any type of "enrollment" function whereby the traveler is enrolled to use a particular check-in function on the day of travel.

Further in regards to this aspect of the invention, the Examiner states that "…the user must first register the information in the card, and receive the card before use, therefore enrolling in the system, which uses the card for ticketing and other purposes."[51] In this statement, the Examiner appears to be implying that the

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[50] Final Rejection paragraph bridging pages 2 and 3.
[51] Final Rejection page 2, last five lines from the bottom of the page.

user's (i.e., the traveler's) entry of information into the passenger card might somehow teach, at least in part, Applicants' enrolling step. Appellant does not agree. Claim 1 step a.) specifically states that an authorized enrollment representative enrolls the traveler. Applicants' traveler does not self-enroll in any process. Thus, the Sehr discussion of a user's entry of data onto his or her own passenger card does not teach Applicants' enrolling step.

To summarize, nothing in Sehr teaches Applicants' use of an authorized enrollment representative to enroll a traveler in an automated check-in procedure, and for this additional reason, the rejection of representative Claim 1 based on Sehr is improper

C.   Whether Sehr teaches an automated check-in process that enables crossing of an international border without aid of human intervention.

As described above, Claim 1 step b.) recites an automated check-in process used at the time of travel to enable crossing of the international border without aid of human intervention. The Examiner cites the following passage of Sehr as teaching this step:

> "The cardholder's identity can be verified at the passenger station <u>by a carrier/travel representative, including via selected information stored in the passenger card</u>. For example, when presented for international travel, the card can provide the cardholder's certified picture that was previously stored in the card or imprinted onto the card package. The stations's (sic) control module can capture the physical appearance of the passenger presenting the card and compare it with the picture stored in the card per se. If there is a match, the passenger's identity is established; otherwise, a message conveyed that the comparison was not successful. <u>In addition, authorized personnel can also verify the picture imprinted onto the card, as well as the</u>

passenger's demographics information stored in the card; a successful
verification indicates that cardholders are who they say they are.[52]

This passage clearly states that the cardholder's identity is verified by a carrier/travel

representative. This verification may include using selected information stored in

the passenger card. For instance, the authorized representative can verify the

picture imprinted on the card. This passage further states that use of a control

module may provide an additional comparison. However, nothing in this passage

indicates that the control module provides the sole verification.

The other passages in Sehr that concern check-in for international travel

reiterate that human intervention is required. For instance, the following passage

describes how a travel representative verifies information for purposes of

international travel:

> "Upon arrival at the check-in counter, the passenger hands the card to the
> airline representative who couples the card to the system for verification
> purposes...Because this is an international travel, the passenger's passport
> will be verified as well. The passport will be retrieved from the passenger card
> and viewed on the control module's display screen. The representative can
> verify the displayed information as is, or might request additional information
> to further verify the lawful bearer; for example, the signature of the passenger
> to be entered via a signature pad."[53]

This passage clearly states that the card must be provided to the airline

representative who then couples the card to the system for verification purposes.

This airline representative may be required to request additional information on a

discretionary basis. Nothing in this passage indicates that this process may be

completed without human intervention.

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[52] Sehr column 23 lines 21-35, emphasis added as cited in the Final Rejection page 3 line 7.

The Examiner maintains that Sehr teaches that the process described in the passage quoted in the foregoing paragraph may be automated. In support of this supposition, the Examiner cites the following statement, which appears in Sehr three paragraphs after the passage quoted above[54]:

> "The above process of checking-in, tagging the luggage, and issuing a boarding pass by an airline representative can also be accomplished automatically via the card's built-in computerized means, while coupling the card to the passenger station-like apparatus and communicating with the airliner's system database."[55]

The Examiner asserts that this statement, which appears at the end of column 35, is referring back to the description of international travel (quoted above) which appears in the first full paragraph of column 34. The Examiner thereby contends that this later passage stands for the proposition that processing a traveler to make an international border crossing can be performed in a completely automated way.

As previously discussed, the earlier passage states that when international travel is involves, the passport is retrieved from the passenger card and "...viewed on the control module's display screen. The representative can verify the displayed information as is, or might request additional information to further verify the lawful bearer..."[56] Nothing in this earlier passage, nor in any other Sehr passage describing check-in of international travelers, indicates how this manual verification process, which involves the discretionary questioning by a representative, might be automated. Therefore, if the later passage in Sehr regarding automation is intended to refer back to the discussion on international travel, Sehr would be non-enabling.

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[53] Sehr column 34 lines 12-14 and 23-28, emphasis added.
[54] See Final Rejection page 5 line 7, citing Sehr column 35 lines 55-60.
[55] Sehr column 35 lines 57-62.

Sehr does not discuss, or even suggest, an automated way to perform the discretionary task of obtaining the additional information that is needed to determine whether a particular passenger is eligible to make an international border crossing. Merely making a vague and cursory statement regarding automation does not indicate how such automation may be achieved, particularly when the only disclosed mechanism requires human discretion.

In regards to the above point, it has long been held that to anticipate an invention, a prior art reference must be enabling. That is, it must place the claimed subject matter in the possession of the public.[57] For instance, In Seymour v. Osborne, the Supreme Court explained:

> "Patented inventions cannot be superseded by the mere introduction of a [prior art reference] unless the description and drawings contain and exhibit a substantial representation of the patented improvement, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains, to make, construct, and practice the invention to the same practical extent as they would be enabled to do if the information was derived from a prior patent. Mere vague and general representations will not support such a [defense], as the knowledge supposed to be derived from the publication must be sufficient to enable those skilled in the art or science to understand the nature and operation of the invention, and to carry it into practical use. Whatever may be the particular circumstances under which the publication takes place, the account published, to be of any effect to support such a [defense], must be an account of a complete and operative invention capable of being put into practical operation."[58]

To summarize, Sehr describes a manual method of determining passenger eligibility to make an international border crossing prior to the boarding of a flight.

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[56] Sehr column 34 lines 24-28.

[57] Akzo N.V. v. U.S. Int'l Trade Comm'n, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986); Ashland Oil, Inc. v. Delta Resins & Refracs., Inc., 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985).

This manual method includes employing the discretion of an airline representative to request information deemed necessary to complete the screening process.   A vague statement appearing in Sehr three paragraphs later that states that "checking-in, tagging the luggage, and issuing a boarding pass by an airline representative can also be accomplished automatically..." does not in any manner put into practical operation any automated process that can replace the manual method that involves the discretion of a human operator.   Thus, if the statement in Sehr regarding automation is intended to apply to the processing of international passengers as the Examiner asserts, the Sehr reference is non-enabling in regards to this aspect of Applicants' invention.

It may further be noted that the terminology used by the Sehr statement regarding automation does not support the Examiner's assertion that this statement refers back to the discussion on international travel. Sehr consistently refers to the process of determining eligibility to travel (including eligibility to travel internationally) as "verification".   For example, Sehr states:

> "the passenger hands the card to the airline representative...for *verification* purposes"....Because this is an international travel, the passenger's passport will be *verified*...The representative can *verify* the displayed information as is, or might request additional information to further *verify*...After the successful *verification*, the system compiles and loads the boarding pass.[59]

This terminology is used in similar Sehr passages, as follows:

> "The cardholder's identity can be *verified* at the passenger station by a carrier/travel representative...In addition, authorized personnel can also *verify* the picture imprinted onto the card...[A] successful *verification* indicates that cardholders are who they say they are. The passenger's identity can also be

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[58] *Seymour v. Osborne*, 78 U.S. 516 (1870), emphasis added.
[59] Sehr column 34 lines 12-14, 23-28, and 34-35.

verified...[60]

Thus, in the first passage cited above, Sehr describes a verification process

to determine a passenger's eligibility to board an aircraft, followed by the printing of

a boarding pass. Following this first passage, Sehr continues with an extensive

discussion of "checking in", which refers to checking luggage. In this discussion on

checking luggage, Sehr states:

> "Next, the passenger will be asked about eventual luggage items that need to be *checked-in*....The tag-related information will also be loaded into the passenger card and attached to the card-based ticket as an electronic proof about what luggage has been *checked-in*. This information will further be communicated with the system database....so as to maintain the status of all luggage being *checked-in*...A successful, one-to-one match means that all luggage, which was *checked-in*...is account for...a luggage identified as being *checked-in* and loaded...but not matched with any of the passengers needs to be investigated... On the other hand, the case of a passenger that *checked-in* with a luggage, but with no luggage being loaded into the cargo hold, needs investigation too.[61]

This extensive discussion on checking in (and tagging) luggage is followed by the

statement cited by the Examiner that "the above process of checking-in, tagging the

luggage, and issuing a boarding pass...can also be accomplished automatically..."

From the terminology used in this latter statement regarding automation, it seems

probable that the statement on automation is referring back to the discussion that

immediately precedes it describing checking in and tagging of luggage. Although it

is true that this statement concerning automation also mentions issuance of

boarding passes, this statement most certainly does not refer to the verification

process which involves verifying whether a traveler is eligible to make an

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[60] Sehr column 23 lines 21-22 and 32-36, emphasis added.

international border crossing.   Because Sehr uses the term "verification" so consistently throughout the rest of the document, if Sehr intended the statement on automation to refer to "verification", it is presumed "verification" would be included in the list of processes to be automated.   However, it is not.

To summarize, Sehr consistently refers to use of manual intervention when processing international travelers. It is believed that the Sehr statement regarding automation of certain processes does not refers back to the discussion on processing international travelers because this interpretation contradicts the terminology usage appearing consistently throughout Sehr.   However, if this statement on automation is interpreted as being applied to the processing of international travelers, Sehr is non-enabling: Sehr most certainly does not disclose an automated mechanism that can replace the manual discretionary verification mechanism disclosed by Sehr.

Summary of the Arguments

To summarize, Sehr does not teach the following elements of Claim 1:

a.) An authorized enrollment representative that, prior to the time of travel, verifies whether a traveler is eligible to make an international border crossing;

b.) An authorized enrollment representative that, prior to the time of travel, employs a data processing system to enroll a traveler to utilize an automated check-in process at the time of travel; and

c.) An automated check-in process that, at the time of travel, enables

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[61] Sehr column 34 line 40, 50, and 53, column 35 lines 30-32, 34-37 and 49-50, emphasis added.

crossing of an international border, which may be completed without aid of human intervention.

In regards to the first two elements set forth above, and contrary to the Examiner's assertions, a passport agent does not enroll a traveler to use any automated check-in process and does not verify that a traveler is eligible to make any particular international border crossing. In regards to the third element, Sehr clearly describes using human intervention to enable crossing of an international border. It appears from the terminology of Sehr that the cursory Sehr statement regarding automation was not intended to refer back to the discussion on international border crossings. Moreover, even if this statement were intended to relate back to the discussion on international border crossings, Sehr is non-enabling in regards to describing any automated process that would be capable of replacing the disclosed manual processing of international travelers, a procedure which requires the discretion and interaction of a human operator. For these reasons, Sehr does not teach each and every aspect of Claim 1, and the rejection of Claim 1 under 35 USC §102(b) based on Sehr is therefore clearly improper.

Discussion of the Remaining Claims

The other independent Claims include aspects that are similar to Claim 1.

For instance, Claim 23 describes:

> a data processing system to allow an authorized enrollment representative, prior to a day of travel, to verify that the traveler is eligible to cross the international border, and to thereafter enroll the traveler to use an automated check-in procedure; and
> a first user interaction system coupled to the data processing system to provide the automated check-in procedure that automatically initiates

activities necessary to allow the traveler to cross the international border without human intervention on the day of travel.

Claim 31 describes:

> enrollment means for allowing an authorized travel representative to enroll the traveler in an automated travel process after the enrollment representative manually verifies the traveler is eligible to enter one or more countries; and
> automated user interface means for allowing the user to participate in the automated travel process that completes all activities required for entry into any of the one or more countries without the need for human intervention at the time of travel.

Each of the independent Claims is allowable for the reasons discussed in regards to representative Claim 1. Each of the dependent Claims 2-22, 24-30, and 32 depend from a respective independent Claim and is allowable for at least the reasons set forth in regards to the independent Claims. For the reasons set forth in detail in regards to representative Claim 1, the rejection of the Claims under 35 USC §102(b) is very clearly improper. It is respectfully requested that this rejection be overturned.

Conclusion and Request for Relief

The rejection of Applicants' Claims 1-32 is improper. Sehr does not teach each and every element of the Claims as is required by 35 USC §102(b). It is respectfully requested that the rejection of all Claims be overturned, and the Claims be passed to issue.

Respectfully submitted,

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Claims Appendix

Presented is a clean set of Claims 1-32 as last amended November 16, 2006.

1   1.   (Previously Amended) A method of using a data processing system for processing

2   travelers crossing international borders, comprising:

3   a) prior to the time of travel, allowing an authorized enrollment representative to

4   employ the data processing system to enroll a traveler to utilize an automated check-in

5   process after the authorized enrollment representative verifies that the traveler is

6   eligible to make an international border crossing; and

7   b) at the time of travel, utilizing the automated check-in process to enable

8   crossing of the international border, which may then be completed without aid of human

9   intervention.

1   2.   (Previously Amended) The method of Claim 1, wherein step a) includes:

2   obtaining an image of a travel document; and

3   comparing the image to an image on file with an enrollment official.

1   3.   (Previously Amended) The method of Claim 2, wherein

2   the step of obtaining the image includes scanning the travel document to obtain

3   a digital image; and

4   the step of comparing the image includes comparing the digital image to a digital

5   image on file with the enrollment official.

1   4.   (Original) The method of Claim 3, wherein the travel document is selected from

2   the group consisting of passports and Official Travel Documents (OTDs).

1   5.   (Previously Amended) The method of Claim 2, wherein step a) includes

2   collecting unique identification indicia from the traveler for use in performing

3   identification verification on a day of travel.

1   6.   (Original) The method of Claim 5, wherein the identification indicia includes

2   biometric data.

1   7.   (Original) The method of Claim 6, wherein the biometric data is selected from a

2   group consisting of handwriting samples, iris scans, hand or finger geometry, facial

3   scans, facial geometry measurements, hand scans, fingerprint samples, physical

4   measurements, and voice samples.

1   8.   (Original) The method of Claim 5, wherein the biometric data includes at least

2   two different types of biometric samples.

1   9.   (Original) The method of Claim 5, and further including storing the identification

2   indicia for use during the automated check-in process.

1   10.   (Previously Amended) The method of Claim 9, wherein step b) includes

2   retrieving the stored identification indicia;

3   collecting unique identification indicia from the traveler; and

4   automatically comparing the unique identification indicia to the stored

5   identification indicia to verify identity of the traveler.

1   11.   (Previously Amended) The method of Claim 10, wherein the retrieving of the

2   stored identification indicia includes:

3   scanning a travel document; and

4   using information on the travel document to retrieve the stored identification

5   indicia.

1   12.   (Original) The method of Claim 10, and further including automatically verifying

2   that the traveler's itinerary qualifies the user to use the automated check-in process.

1   13.   (Original) The method of Claim 10, and further including automatically prompting

2   the traveler to electronically complete at least one questionnaire required for the

3   international border crossing.

1   14.   (Original) The method of Claim 13, and further including checking the at least

2   one completed questionnaire to determine whether the traveler is eligible to utilize an

3   automated clearance process after the international border has been crossed.

1   15.   (Original) The method of Claim 10, and further including automatically printing

2   documents to allow the traveler to embark on the international border crossing.

1   16.   (Original) The method of Claim 1, wherein the automated check-in process is

2   performed on a self-service kiosk.

1   17.   (Previously amended) The method of Claim 1, and including performing one or

2   more automated checks to determine whether the traveler poses any risk to a country

3   of destination.

1   18.   (Original) The method of Claim 17, wherein the checks are selected from the

2   group consisting of a criminal check, a terrorist check, an agricultural check, and an

3   immigration check.

1   19.   (Previously Amended) The method of Claim 17, and further including, at the

2   country of destination, utilizing an automated clearance process to allow the traveler to

3   enter the country.

1   20.   (Previously Amended) The method of Claim 19, wherein the automated

2   clearance process includes:

3   verifying the identity of the traveler;

4   obtaining results of the one or more automated checks;

5   if any of the one or more automated checks failed, requiring the traveler to

6   undergo a manual clearance process; and

7   if all of the automated checks passed, allowing the user to enter the country of

8   destination without undergoing the manual clearance process.

1   21.   (Original) The method of Claim 20, and further including enabling an automated

2   exit gate to allow a user to enter the country of destination.

1   22.   (Previously Amended) The method of Claim 10, wherein the step of storing the

2   identification indicia includes creating a secure token storing the identification indicia.

1   23.   (Previously Amended) A system for performing automated processing of a

2   traveler crossing an international border, comprising:

3   a data processing system to allow an authorized enrollment representative, prior

4   to a day of travel, to verify that the traveler is eligible to cross the international border,

5   and to thereafter enroll the traveler to use an automated check-in procedure; and

6   a first user interaction system coupled to the data processing system to provide

7   the automated check-in procedure that automatically initiates activities necessary to

8   allow the traveler to cross the international border without human intervention on the

9   day of travel.

1   24.   (Original) The system of Claim 23, and further including a second user

2   interaction system coupled to the data processing system to provide an automated

3   clearance procedure that automatically initiates activities necessary to allow the traveler

4   to enter a country of destination after the international border has been crossed.

1   25.   (Original) The system of Claim 24, wherein at least one of the first and the

2   second user interaction systems are self-service kiosks.

1 26.   (Original) The system of Claim 24, wherein at least one of the first and the

2 second user interaction systems includes at least one biometric reader to read

3 biometric samples from the traveler.

1 27.   (Original) The system of Claim 24, wherein at least one of the first and the

2 second user interaction systems includes a scanner to scan travel documents.

1 28.   (Original) The system of Claim 24, wherein the first user interaction system

2 obtains data from the traveler that is required to allow entry into the country of

3 destination.

1 29.   (Original) The system of Claim 28, wherein at least one of the data processing

2 system and the first user interaction system includes means for checking the data to

3 determine whether the traveler is allowed to utilize the second user interaction system

4 to complete the automated clearance procedure.

1 30.   (Original) The system of Claim 29, wherein at least one of the data processing

2 system and the first and second user interaction systems includes means to initiate

3 automated checks to determine whether the traveler poses any threat to the country of

4 destination.

1   31.   (Previously Amended) A system for managing the crossing of an

2   international border by a traveler, comprising:

3   enrollment means for allowing an authorized travel representative to enroll

4   the traveler in an automated travel process after the enrollment representative

5   manually verifies the traveler is eligible to enter one or more countries; and

6   automated user interface means for allowing the user to participate in the

7   automated travel process that completes all activities required for entry into any of

8   the one or more countries without the need for human intervention at the time of

9   travel.

1   32.   (Original) The system of Claim 31, wherein the automated user interface

2   means includes:

3   first means for automatically performing check-in activities before crossing

4   the border; and

5   second means for automatically performing clearance activities after crossing

6   the border.

Evidence Appendix

(None)

Related Proceedings Appendix

(None)